

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa.asp](http://www.montgomerycountymd.gov/content/council/boa.asp)

**Case No. S-2584**

**PETITION OF DAVID CRUZ**

**OPINION OF THE BOARD**

(Resolution Adopted December 10, 2003)  
(Effective Date of Opinion: February 9, 2004)

Case No. S-2584 is an application, pursuant to Section 59-G-2.00 of the Zoning Ordinance, for an accessory apartment.

The subject property is Lot 16, Block B in the Kingswell Subdivision, 2814 Kingswell Drive, Silver Spring, Maryland 20902 in the R-60 Zone.

Pursuant to the authority in Section 59-A-4.125 of the Montgomery County Zoning Ordinance, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct a public hearing and submit a report and recommendation. The Hearing Examiner convened a public hearing on October 14, 2003, closed the record on October 21, 2003, and issued a report and recommendation for approval of the special exception on November 20, 2003.

Decision of the Board:                      Special Exception **granted**, subject to  
the conditions enumerated below.

The Board of Appeals considered the Hearing Examiner's report at its Worksession on December 10, 2003. The Board **adopts** the report and recommendation and finds that the special exception should be **granted** subject to the following conditions:

1. The Petitioner is bound by his testimony and exhibits of record, including but not limited to Exhibit Nos. 3, 4 and 9, as well as his testimony that the Isuzu Trooper identified in the Department of Housing and community

Affairs inspection report, has been removed, to the extent that such testimony and exhibits are identified in the Hearing Examiner's report and in the opinion of the Board.

2. The petitioner must install a GFCI receptacle in the kitchen.
3. The Petitioner must clear all solid waste from the property.
4. The accessory apartment may be occupied by no more than two unrelated persons or a family not to exceed four persons.

The Board also notes with appreciation the participation of Ms. Veronica Fernandez in the public hearing, as a volunteer translator for Mr. Cruz.

On a motion by Donna L. Barron, seconded by Allison Ishihara Fultz, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman in agreement and Louise L. Mayer necessarily absent, the Board adopted the following resolution :

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the resolution required by law as its decision on the above entitled case.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 9<sup>th</sup> day of February, 2004.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See

Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.